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46

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/890,921	08/07/2001	Michael David Bell	CM2038	1887

27752 7590 01/11/2005

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EXAMINER

FUBARA, BLESSING M

ART UNIT PAPER NUMBER

1615

DATE MAILED: 01/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/890,921

Applicant(s)

MICHAEL DAVID BELL

Examiner

Blessing M. Fubara

Art Unit

1615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 10-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 10-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Examiner acknowledges receipt of request for extension of time and remarks filed 08/06/04. Claims 1-6 and 10-15 are pending.

Claim Rejections - 35 USC § 112

1. Claim 15 remain rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Applicants attempted to include/recite active method step(s) by adding “addition to the composition of” phrase to the claim after comprising in line 2. However, the claim is vague and indefinite because the claim does not define or recite what is added to the composition to complete the method step. What is added to the composition to reduce the levels of tack? Claim 15 starts out by reciting “a method for reducing levels of tack in a skin care composition comprising..., the claim reads as a composition without the recitation of what was added in the method step.

Claim Rejections - 35 USC § 102

2. Claims 1-6, 10, 11 and 13-15 remain rejected under 35 U.S.C. 102(e) as being anticipated by Tanner et al. (US 6,024,942).

Applicants argue that the instant claims use water swellable cationic polymers in compositions to produce compositions that exhibit low level tack and that Tanner does not use water swellable cationic polymers.

3. Applicants' arguments filed 08/06/04 have been fully considered but they are not persuasive.

Tanner discloses the cationic polymers of the claims.

Art Unit: 1615

Claim Rejections - 35 USC § 103

4. Claims 12 remains rejected under 35 U.S.C. 103(a) as obvious over Tanner et al, *US 6,024,942) in the alternate.

Applicants argue that Tanner does not use water swellable cationic polymers to reduce levels of tack in leave-on cosmetic compositions.

5. Applicants' arguments filed 08/06/04 have been fully considered but they are not persuasive.

Tanner discloses the cationic polymers of the claims and these polymers are water swellable. Since Tanner discloses water swellable cationic polymers, it would not be necessary for the person of ordinary skill in the art to select water-soluble polymers. The rejection was presented in the alternative because the amount of the cationic polymer is either anticipated or rendered obvious by Tanner.

6. Jones et al. (WO 96/03967) was made of record. Applicants argue that “polymers with identical monomer(s) and identical molecular weight(s) can have very different glass transition temperatures depending upon a number of factors” such as the level of branching within the polymer. However this argument is not persuasive because applicants are relying on limitations not recited in the claims.

Observation:

Applicants made no remarks on the observation and suggestion that cellulosic be changed to cellulose and cellulose be used in place of cellulosic derivatives.

No claim is allowed.

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

Art Unit: 1615

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Blessing M. Fubara whose telephone number is (571) 272-0594. The examiner can normally be reached on 7 a.m. to 3:30 p.m. (Monday to Friday).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thurman K. Page can be reached on (571) 272-0602. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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